

AO 120 (Rev. 3/04)

<b>TO:</b> Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE          FILING OR DETERMINATION OF AN          ACTION REGARDING A PATENT OR          TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court WDNY on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 07-CV-768	DATE FILED 11/15/2007	U.S. DISTRICT COURT WDNY
PLAINTIFF Lee Shuknecht & Sons, Inc.		DEFENDANT Brian Vculek AG Inc. Brian Vculek Farm
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,376,046		**Please see attached copy of the complaint**
2 5,024,278		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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LEE SHUKNECHT & SONS, INC.

Plaintiff,

COMPLAINT

vs.

JURY TRIAL DEMANDED

BRIAN VCULEK AG INC.  
BRIAN VCULEK FARM

Defendants.

Civil No.

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Plaintiff, Lee N. Shuknecht & Sons, Inc. ("Plaintiff" or "Shuknecht") for its Complaint against Defendant Brian Vculek AG INC. and Brian Vculek Farm (collectively "Defendants") alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for infringement of United States Letters Patent Nos. 5,376,046 (the "'046 Patent") and 5,024,278 (the "'278 Patent"), pursuant to applicable federal patent laws. A copy of the '046 and '278 Patents are attached to this Complaint as Exhibit A.

2. Shuknecht is the owner of the '046 and '278 Patents.

PARTIES, JURISDICTION & VENUE

3. Plaintiff, Shuknecht, is a New York corporation with its principal place of business at 4458 Ford Road, Elba, New York 14058.

4. Upon information and belief, Defendant Brian Vculek AG Inc. is a North Dakota corporation having a place of business at 14158 Highway 27, Lisbon, ND 58054.

5. Upon information and belief, Defendant Brian Vculek Farm is a North Dakota partnership between Brian L. Vculek and Julie Sue Vculek having a place of business at 14158 Highway 27, Lisbon, ND 58054.

6. This action is one for patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§271 and 281 *et seq.*, and more specifically, 35 U.S.C. §§271, 281, 283, 284 and 285.

7. Upon information and belief, Defendant Brian Vculek AG INC. does, or transacts, business in New York and is subject to the personal jurisdiction of this Court.

8. Upon information and belief, Defendant Brian Vculek AG INC. does, or transacts, business in this judicial district.

9. Upon information and belief, Defendant Brian Vculek Farm does, or transacts, business in New York and is subject to the personal jurisdiction of this Court.

10. Upon information and belief, Defendant Brian Vculek Farm does, or transacts, business in this judicial district.

11. Venue is proper in this District, pursuant to 28 U.S.C. §§1391 and 1400.

#### FACTUAL BACKGROUND

12. Upon information and belief, Defendants made, used, and are using patented components of a harvesting machine which are covered both literally and equivalently by claims of the Patents.

#### FIRST CAUSE OF ACTION

Infringement of U.S. Patent No. 5,024,278

13. Plaintiff repeats and realleges the allegations contained in paragraphs 1-12.

14. Upon information and belief, Defendant has infringed the '278 Patent by making, and using components of a harvesting machine which is covered by claims of the '278 Patent.

15. Upon information and belief, such infringement of the '278 Patent by Defendant was done with actual knowledge of the existence of the '278 Patent and the patented inventions, and is unlawful, deliberate and willful, making this an exceptional case within the meaning of 35 U.S.C. §§284 and 285.

### SECOND CAUSE OF ACTION

#### Infringement of U.S. Patent No. 5,376,046

16. Plaintiff repeats and realleges the allegations contained in paragraphs 1-15.

17. Upon information and belief, Defendant has infringed the '046 Patent by making, and using patented components of a harvesting machine which is covered by claims of the '046 Patent.

18. Upon information and belief, such infringement of the '046 Patent by Defendant was done with actual knowledge of the existence of the '046 Patent and the patented inventions, and is unlawful, deliberate and willful, making this an exceptional case within the meaning of 35 U.S.C. §§284 and 285.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. That the Court adjudge United States Patent Nos. 5,024,278 and 5,376,046 valid and infringed by Defendants;

B. That Defendants and their agents, servants, employees, attorneys, directors, officers and those in active concert or participation with any of them be preliminarily and permanently enjoined under 35 U.S.C. §283 from further infringement of the '278 and '046 Patents;

C. That Defendants be ordered to deliver up to this Court, for such disposition as it sees fit, all infringing products and articles within the possession or control of Defendants, or recallable by Defendants;

D. That Defendants be required to pay damages to Plaintiff for infringement of the '278 and '046 Patents as provided under 35 U.S.C. §284;

E. That Defendants be adjudged a willful infringer of the '278 and '046 Patent, that this case be declared an exceptional case within the meaning of 35 U.S.C. §§284 and 285, and that Defendants be ordered to pay treble damages to Plaintiff due to the deliberate and willful nature of the infringement of the '278 and '046 Patents;

F. That Defendants be required to pay prejudgment and post-judgment interest at the legal rate until such judgment is paid;

G. That Plaintiff be awarded its reasonable attorney's fees and costs in this matter;  
and

H. That Plaintiff be granted such other and further relief as this court deems just.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury of all issues so triable.

Dated this 14 day of November, 2007

By



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